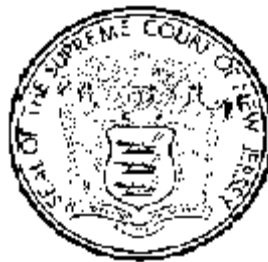


APPENDIX B

SUPREME COURT FAMILY PRACTICE COMMITTEE



JUDICIAL EDUCATION *Final Subcommittee Report*

Co-Chaired by
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Comprehensive Judicial Orientation Program for Newly Assigned Family Part Judges

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Background

For over two decades, Supreme Court committees have focused on the importance of judicial education. A number of committees and organizations have discussed the benefit of having immediate and intensive education available to judges newly assigned to the Family Part. As the complexity of cases increase and number of filings continue to rise, a greater demand has been placed on the Judiciary to provide quality and expedited service to New Jersey families seeking relief through the Courts. The need for an immediate and comprehensive educational program for newly appointed judges has never been greater than today.

In 1979, the *Supreme Court Committee on Matrimonial Litigation*, chaired by Associate Justice Morris Pashman, issued an interim report (*Pashman: Phase I*) identifying issues and needs regarding matrimonial reform. The Supreme Court endorsed specific recommendations advanced by the *Pashman: Phase I Report* including the concept of providing extensive training for matrimonial judges and attorneys. In 1981 the committee issued its final report, *Pashman: Phase II*, recommending that all judges develop expertise in each family court discipline.

In August, 1986, Chief Justice Robert Wilentz appointed the *Pathfinders Committee* to identify problems in the Family Court and suggest effective solutions to such problems. The findings and general principles of the *Pathfinders II Report* (completed, 1991) were endorsed by the Supreme Court. The Report recommended that “an effort should be made to provide assurances that each judge who sits on family cases has, from the very outset, the basic knowledge and sensitivity which can make a difference between a family which will be assisted and one which will be damaged further.” The report advanced the concept of “basic training” for each newly appointed Family Part Judge through participation in a Judges Orientation Seminar, in addition to a subsequent two-week instruction in substantive and procedural aspects of all facets of Family Law.

In its assessment of current educational programs, the *Family Division Practice Committee* concluded in its 1987-88 report, that due to increases in filings, complexity of issues, and rotation of judges into the Family Part, “a program could be developed providing the necessary initial education without being administratively burdensome or expensive.” In April, 1995, the *Report of the Commission to Study the Law of Divorce* recommended that “the Supreme Court should consider significantly increasing training for judges with regard to matrimonial and domestic violence matters. New or recently assigned judges in the Family Part should participate in an intensive educational course prior to hearing any matters.”

The *Family Division White Paper* (approved by the Supreme Court on March 1, 1993) outlined management and organizational standards to enhance Family Part services. This document recognized the necessity of immediate judicial education for all judges newly appointed or assigned to the Family Part and recommended that training be developed and offered to judges through concerted efforts of the Judicial Education Office, the Family Division Subcommittee of the Judicial Education Committee, the Training Unit of the Human Resources Division, and the Family Division of the Administrative Office of the Courts.

On September 23, 1998, the *Family Practice Committee* appointed a *Subcommittee on Judicial Education* to make specific recommendations to implement an effective judicial training component for newly appointed judges which would occur at the earliest time practical. The Subcommittee's findings and proposals were presented and approved by the full Committee on May 5, 1999. The two key components of the proposal were defined as follows: (1) the training would occur prior to a judge handling a single case, and (2) the orientation program should be comprehensive and a minimum of two weeks in length. Subsequently, the *Conference of Family Division Presiding Judges* presented its *Report on Best Practices and Standardization*. The report proposed "an immediate, judicial orientation program lasting at least two weeks for Family Division Judges newly-appointed to the bench and for those reassigned to the Division through a standard, immediate, comprehensive training and orientation program." In September, 1999, the *Judicial Council* endorsed the concept of the two-week training program, but expressed concern regarding the extent of attorney participation in teaching newly appointed judges. The Council suggested that this issue, and the development of a detailed training curriculum, be dealt with by a joint committee consisting of the *Conference of Family Division Presiding Judges* and the *Family Practice Committee*. The Joint Committee on Judicial Education began their deliberations in November, 2000, in an effort to design a program to address the immediate educational needs of newly assigned Family Part judges. In July, 2001, the Conference of Family Division Presiding Judges unanimously endorsed the Joint Committee's concept of a Comprehensive Judicial Orientation Program. This report details the *Joint Committee's* recommendations of course content, delivery, and implementation of a long-awaited and needed educational endeavor.

Comprehensive Judicial Orientation Program for Family Part Judges

Proposal

General Concept

The program concept is simple. Each judge, newly appointed or assigned to the Family Part, will undergo a comprehensive instructional program before being assigned any cases. The program will include observation of experienced judges within their vicinage, discussion of control and demeanor, and detailed substantive and procedural instruction provided by quality teaching Judges and judicial staff covering each Family Part case type. The instruction will be mandatory, uniform, comprehensive, and immediate for all newly appointed/assigned judges to the Family Part. Upon completion of the program the participating judges will gain a substantive foundation and sense of confidence in effectively dealing with all aspects of Family Law.

Notification Upon Assignment

A basic premise for the success of the program is that the newly appointed judge receive comprehensive instruction at the earliest possible point in time. Once notified of an appointment or assignment, the Office of the Assistant Director, Education and Training will issue a letter to the Assignment Judge and Presiding Judge advising of the availability of the Comprehensive Judicial Orientation Program (CJOP). The Presiding Judge would then contact the Family Practice Division of the Administrative Office of the Court to coordinate training dates and faculty assignments. The Family Practice Division designee, through consultation with Presiding Judges, and teaching Judges selected to provide instruction in the various case types, will devise an implementation plan to ensure all topics are addressed within the allotted two-week time frame. (There may be instances in which the CJOP will be able to be extended beyond the minimum two-week period provided that such an extension will not negatively impact on the participant's judicial assignment). Once the teaching plan is set, the Family Practice Division designee will issue a schedule detailing dates, times, and assigned faculty to the Assignment Judge, Presiding Judge, and participant.

Faculty

The greatest resource of the Judiciary is the quality of its Judges and staff. Through a recruitment process assisted by the Conference of Family Division Presiding Judges, experienced

judges were nominated to serve as teachers in the various Family Part disciplines. The faculty includes judges with expertise in specific case types and from all geographical regions of the State. This faculty roster is extensive as the result of an enthusiastic response to the recruitment requests. Teaching judges can therefore be assigned on a rotating basis to lessen the impact on their own cases and calendars for the time devoted to instruction. Geographical considerations will be made to minimize the travel time of the participant to the teacher.

The Child Support Hearing Officer Program will provide experienced Officers to present instruction on the use of Child Support Guidelines and application of the Uniform Interstate Family Support Act. Family Division Managers and Vicinage Chief Probation Officers are encouraged to commit quality staff to present overviews of case processing and automated systems which assist judges with their complex and varied assignments.

The Joint Committee discussed the role of attorneys and their value in program development and implementation. This issue of the extent of attorney involvement was referred to the Conference of Family Division of Presiding Judges for their consideration and was placed on their September 20, 2001 agenda. Although the Conference recognized the value of the Bar in continuing education, and the wealth of qualified attorneys willing to contribute ideas and materials for curriculum development, they unanimously agreed to limit faculty participation to judges and Judiciary staff.

Observation

Under the direction and supervision of the Presiding Judge each participant will observe experienced judges in their day-to-day processing of cases. This observation includes, work on the bench, interaction of Family and Probation staff, and the role of Mediators, Early Settlement Panels, Case Management Conferences, Juvenile Referees, Domestic Violence Hearing Officers, and Child Support Hearing Officers. Observations should not be restricted to a particular case type but cover all areas of family law to provide the new judge with an overall sense of how the Family Part operates as a team. The judge would be offered exposure to case types of which he or she may not be initially assigned but will likely encounter as emergent matters. (A sample observation outline can be found in the appendix of this document).

Family Court can be characterize as a forum where “the best of our society exhibit their worst behavior.” Family Part judges must deal with interpersonal emotional conflict while deciding

legal aspects of a case and maintaining proper perspective and balance is crucial. It is essential that judges demonstrate impartiality, propriety, fairness, and courtesy at all times whether on or off the bench. The Presiding Judge will ensure that the Judicial Code of Conduct is reviewed and points of proper demeanor and conduct presented within the observation portion of the curriculum.

An integral component of a quality judicial system is the interaction of support staff with the judges. Both Family and Probation Divisions play a crucial role in efficient case processing. Judges must know how cases are processed through this system and develop a trust and understanding of support staff and their functions. Coordinated by the Presiding Judge and with the cooperation of the Family Division Manager and the Vicinage Chief Probation Officer, participants will be offered an overview of case filing and processing, function of teams, and how the divisions support Family Part Judges. Much of case processing involves automation. Family Division records and tracks all filings and pleadings through the Family Automated Case Tracking System (FACTS) while Probation utilizes the Automated Child Support Enforcement System (ACSES) for child support and alimony payment recording and enforcement tracking. Participants will be offered a general overview of these system tools and their capabilities.

Case Type Instruction

Instructional outlines were developed in the following case disciplines: Children in Court; Custody and Parenting Time; Dissolution; Domestic Violence; Juvenile Justice; Child Support Guidelines; and the Uniform Interstate Family Support Act. Use of these instructional outlines will ensure thoroughness and uniformity in covering subject matters regardless of who is assigned to teach. Faculty have been matched to these case types based on their expertise and experience.

Participants will be required to travel to the teaching judge's county in order to receive instruction in the particular discipline. Having the "new judge" travel to the "teaching judge" will minimize the effect of "time off the bench" for the instructor. Consideration will be given for travel time and distance of the participant when faculty assignments are determined.

Child Support Hearing Officers dispose over 12,000 cases annually involving establishment, modification, and enforcement of child support. Hearing Officers also decide interstate jurisdictional issues through application of the Uniform Interstate Family Support Act (UIFSA). Hearing Officers have expertise in both application of Child Support Guidelines and UIFSA and will provide thorough instruction in these areas of family law. Unlike judges, Hearing

Officers are nomadic and typically travel from county-to-county as demanded by their monthly assignments. Therefore, teaching Hearing Officers will travel to the “new judge’s” county to offer instruction in child support related areas.

Faculty Orientation

A fundamental program goal is to ensure that each newly assigned judge receives thorough and uniform instruction regardless of the educator. Teaching judges and staff will be required to attend a faculty orientation seminar specific to their assigned case type to make certain instruction is delivered in a complete and consistent manner. Lead judges and staff will be selected to facilitate faculty orientation in each Family Part discipline.

The New Jersey Bar has played a vital role in judicial education including participation in Family Division Retreats and Judicial College. The Joint Committee recognizes the value of the Bar and, therefore, dynamic and experienced attorneys, particularly those specializing in the areas of dissolution, custody, and parenting time, will be encouraged to take part in Faculty Orientation and continuing curriculum development.

Implementation Issues

The Joint Committee realizes, like any new program, a number of issues need to be addressed if the Comprehensive Judicial Orientation Program is to achieve its intended objectives. A number of such issues are apparent while others may not be identified until after implementation.

The learning curve in Family Law and judicial procedures is great due to diverse case types and the detail and comprehensive nature of the course curriculum. There is concern whether all topics can be adequately covered within a two-week time frame. Additionally, there is genuine concern regarding the effect of faculty commitment on the teaching judges’ case assignments and duties. Consideration may be given to having a portion of the program offered during off-hours and flexibility in terms of delivery must be examined.

There are vast amounts of materials available from sources including the Institute for Continuing Legal Education and the Administrative Office of the Courts, Office of Education and Training. Experienced judges and staff, serving on the faculty or the Joint Committee may also have tapes and publications that may be of benefit to a newly assigned Family Part Judge. The Joint Committee, with the help of those judges, staff, and attorneys selected to participate in the

Faculty Orientation portion of the program, will review a compilation of educational materials for determination of value and appropriateness.

Program success is dependant on the commitment of the Administrative Office of the Courts, Conference of Family Division Presiding Judges, and most importantly, Assignment Judges and Family Part Presiding Judges of each Judicial Vicinage to ensure that the resources, including the commitment and dedication of all judges serving as faculty remains constant.

Self Evaluation

A characteristic of any successful continuing educational endeavor is self-evaluation through recognition of both quality attributes and shortcomings. Through constant evaluation, need for change must be recognized and appropriate modifications quickly implemented. Evolvement of case law and enactment of new legislation will mandate modification to the course content. Retirement of judges and changes in judicial assignments will require ongoing consideration of changes in faculty. The Joint Committee will continue to deliberate over the evolvement of the Comprehensive Judicial Orientation Program and evaluate its successes and failures through self-examination and feedback from the participants, faculty, Assignment Judges and Family Part Presiding Judges.

Appendix I:

Faculty

(Reserved - Currently Under Development)

Appendix II:

Instructional Outlines

Children in Court: Instructional Outline

Children in Court

I. Overview

- A. Jurisdiction
- B. Role of DYFS
- C. Impact and Requirements of *Adoption and Safe Families Act (ASFA)*
- D. Children in Court Advisory Council at Vicinage Level
- E. Types of Complaints
 - 1. Order to Investigate
 - 2. Order for Care and Supervision
 - 3. Order for Custody, Care and Supervision (removal)
 - 4. Emergency Removal (DODD)

II. Order to Show Cause Filed

- A. Heard in Court or Decided on the Papers
- B. Contrary to the welfare of the child to remain in the home determination to be done on first order
- C. Reasonable Efforts to Prevent Removal

III. Return of the Order to Show Cause

- A. Proof of Service
- B. Attorneys Appointed (5A)
- C. Search for Parents/Relatives
- D. Services for Parents/Visitation

IV. Fact Finding Hearing/Stipulation

- A. Time Frames
- B. Stipulation
- C. Fact Finding Hearing
 - 1. R. 1:7-4 Findings by the Court in Non-Jury Trials and on Motions
 - 2. Standard of Proof
 - 3. Discovery (exchange of documents/witness lists)

4. Case Management Conferences

V. Disposition Hearing/Compliance Reviews

- A. Entry of Disposition and Service Plan Order
- B. Subsequent Review to Monitor Compliance

VI. Permanency Hearing

- A. Time Frames
- B. Findings
 - 1. Risk to Child
 - 2. Reasonable Efforts to Achieve Permanency
- C. Determination of Appropriateness of Plan
 - 1. Reunification with Parents or Relatives
 - 2. Termination of Parental Rights
 - 3. Alternative Permanent Living Arrangement

VII. Child Placement Review

- A. Overview
- B. Board of Review (initial, special, status)
- C. Pre-permanency Reviews by Board
- D. Summary Hearings

VIII. Termination of Parental Rights

- A. Time Frames
- B. Order to Show Cause (filing and return)
- C. Case Management Conference
- D. Trial
 - 1. R. 1:7-4 Findings by the Court in Non-Jury Trials and on Motions
 - 2. Standard of Proof
 - 3. Discovery/Experts
 - 4. Disposition
 - 5. Appeal Process
 - 6. Time Goals/Adjournments

IX. Kinship Legal Guardianship

- A. Definition
- B. Effect of Kinship Legal Guardianship
- C. Proceedings in Superior Court
 - 1. Venue
 - 2. Filing/Intake by CIC Case Processing Teams
 - 3. Processing Cases with DYFS Involvement
 - a. Cases with DYFS involvement - Generally
 - b. Petitions filed by DYFS
 - c. Petitions filed by the Caregiver
 - 4. Processing Private Party Applications
 - 5. Factors
 - a. Proper notice given to the child's parents
 - b. Best interest of the child
 - c. Kinship Caregiver assessment
 - d. DYFS recommendations including parenting time or visitation restriction
 - e. Potential kinship legal guardian's ability to provide a safe and permanent home for the child
 - f. Wishes of the child's parents, if known to the court
 - g. Wishes of the child if 12 years of age or older
 - h. Suitability of the Caregiver and family to raise the child
 - i. Ability of Caregiver to assume full legal responsibility of the child
 - j. Commitment of the Caregiver and family to raise the child to adulthood
 - k. Results from the child abuse record check
 - l. Results from criminal history record background check and domestic violence check
 - 6. Post Judgment Motions

X. Finalization to Adoption

- A. Post-Termination Tracking

B. CPR Board Review

C. Summary Hearing

XI. Mediation

A. Identified Surrenders

Custody and Parenting Time: Instructional Outline

Custody and Parenting Time

XII. Child Custody Statute - N.J.S.A. 9:2-4

- A. State Policy
- B. Factors to be used in making a custody award
 1. Parents' inability to agree, communicate and cooperate in matters relating to the child
 2. Parents' willingness to accept custody and any history of unwillingness to allow visitation not based on substantial abuse
 3. Interaction and relationship of the child with its parents and siblings
 4. History of domestic violence
 5. Safety of the child and the safety of either parent from physical abuse by the other parent
 6. Preference of the child when of sufficient age and capacity to reason so as to form an intelligent decision
 7. Needs of the child
 8. Stability of the home environment offered
 9. Quality and continuity of the child's education
 10. Fitness of the parents
 11. Geographical proximity of the parents' homes
 12. Extent and quality of the time spent with the child prior or subsequent to the separation
 13. Parents' employment responsibilities
 14. Ages and number of children

XIII. Early Identification of Custody Motions

- A. Necessity to meet six-month deadline - R. 5:8-5 (Best Practices)
- B. Identify when filed
- C. Identify when put on motion list
- D. Case Manage on return date
- E. Filing of Parenting Plan

1. R. 5:8-5
2. Seventy-five days after last responsive pleading

XIV. Court Sponsored Mediation R. 5:8-1

- A. Send early
- B. Track lack of success so that can be sent for next step expeditiously
- C. Court order for parenting/custody if mediation

XV. Private Mediation

- A. Send early if necessary
- B. Specific and clear court order regarding mediator's goals
- C. Contact therapist for timetable if court-appointed
- D. Set deadlines for contact, retention, reports

XVI. Best Interest Evaluation - R. 5:8-1

- A. Propriety, no cost
- B. Establish deadline - Rule states 45 days
- C. Periodic Reports - R. 5:8-2
- D. Confidentiality - R. 5:8-4

XVII. Private Custody and Parenting Evaluations - R. 5:3-3(a)

- A. Proper in complex cases
- B. Evaluator/therapist conflict - R. 5:3-3(a)
- C. Establish deadlines for contact, retention, appointments, reports
- D. Preference of court appointment as to multiple party experts
- E. Right of counsel to attend interviews - R. 5:3-3(d)

XVIII. Counsel for child - R. 5:8A

XIX. Guardian Ad Litem - R. 5:8B

XX. Child Therapists

- A. Enlist your own
- B. Match to child
- C. Establish guidelines
- D. Learn from them

XXI. Child/Therapist Privilege

- A. May be pierced in best interests of child
- B. Warn counsel and parties
- C. Kinsella v. Kinsella, 150 N.J. 276 (1997)

XXII. Child Interviews by the Court

- A. Separate from hearing in time and space
- B. After or before evaluation by experts
- C. On the record, in camera
- D. Ask for waiver of parties to review if possible
- E. Be casual, indirect, sensitive
- F. May use to “bargain” with child
- G. Try to “consent”

XXIII. Modification of Custody

- A. Changed circumstances
- B. Best Interests of child

XXIV. Supervised Parenting

- A. Interim measure
- B. Establish deadline
- C. CASA/private
- D. Establish purpose

XXV. Therapeutic Parenting

- A. Supervised by therapist
- B. Establish purpose

XXVI. Settlement

- A. Judicial involvement
- B. Exhaust all possibilities before trial
- C. Involve experts, if possible
- D. Renew efforts even during hearing to foster settlement

XXVII. Removal of child from New Jersey

- A. Expedite all steps, usually time-sensitive
- B. Baures v. Lewis 169 N.J. (2001); N.J.S.A. 2A:34-28 et seq.

XXVIII. Trial of Custody Issue - R. 5:8-6

XXIX. Uniform Child Custody Jurisdiction Act - N.J.S.A. 2A:34-28 et seq.

- A. Avoids interstate competition and conflict
- B. Establishes “home state” of child and jurisdiction of home state
- C. See also R. 5:2-1. Venue, Where Laid
 - 1. Interstate
 - 2. Intrastate

Dissolution:

Instructional Outline

Dissolution

XXX. Divorce

- A. Jurisdiction
- B. Grounds
 - 1. Fault Grounds
 - a. Adultery
 - b. Desertion
 - c. Extreme Cruelty
 - d. Deviant Sexual Conduct
 - 2. No-Fault
 - a. Separation
 - b. Drug Addiction and Drunkenness
 - c. Institutionalization
 - d. Imprisonment
- C. Divorce from Bed and Board (Limited Divorce)
- D. Miscellaneous Considerations
 - 1. Religious
 - a. Jewish Get
 - b. Catholic Annulment
 - 2. Name Change
 - 3. Hospitalization
 - 4. Social Security Benefits
 - 5. Ownership of Realty
- E. Uncontested

XXXI. Judgement of Nullity

- A. Effect
 - 1. Status of Children
 - 2. Alimony and Child Support
 - 3. Property
- B. Jurisdiction

- C. Grounds
 - 1. Prior Marriage
 - 2. Prohibited Decrees
 - 3. Impotence
 - 4. Incapacity to Consent or Fraud
 - 5. Nonage
 - 6. General Equity Jurisdiction

XXXII. Alimony

- A. Types
 - 1. Permanent
 - 2. Limited Duration
 - 3. Rehabilitative
 - 4. Reimbursement
- B. Statutory Factors
 - 1. Duration of Marriage
 - 2. Age and Health of Parties
 - 3. Standard of Living
 - 4. Earning Capacity and Employability of Parties
 - 5. Length of Absence from Job Market
 - 6. Time and Expense to Acquire Education/Training
 - 7. Parental Responsibilities to Children
 - 8. Financial Contributions to Marriage
 - 9. Assets
 - 10. Relationship with Equitable Distribution
 - 11. Tax Treatment
- C. Case Information Statement
- D. Types of Support Orders
 - 1. *Pendente Lite*
 - 2. Final Order
 - 3. Separate Maintenance
 - 4. Domestic Violence Actions

XXXIII. Equitable Distribution

- A. Cognizable Actions
 - 1. New Jersey Judgment of Absolute Divorce
 - 2. New Jersey Judgment of Limited Divorce
 - 3. Foreign Divorce
 - 4. Interspousal Agreement
 - 5. Post-Judgment Litigation
- B. Jurisdiction to Affect Property
- C. Eligibility of Immune Assets
 - 1. Pre-marital Property
 - 2. Post-marital Property
- D. Gratuitous Transfers
- E. Changes in Immune Assets
- F. Eligibility of Assets for Distribution
 - 1. Realty
 - 2. Personal Property and Rights
 - 3. Personal Financial Interests
 - 4. Employment Related Assets
 - 5. Business Interests
- G. Factors for Determining Equitable Distribution
 - 1. General Marital Factors
 - 2. Non-Financial Contributions
 - 3. Source of Acquisition
 - 4. Financial Status of Parties
 - 5. Ownership and Value of Property
 - 6. Circumstances Upon Distribution
 - 7. Tax Consequences
 - 8. Trust Devices
 - 9. Agreements Between Parties
 - 10. Residential Ownership
 - 11. Miscellaneous Considerations

- H. Valuation of Assets
 - 1. Date for Valuation
 - 2. Methods and Criteria
- I. Methods of Distribution
 - 1. Cash Payment
 - 2. Deferred Payment/Benefit Sharing
 - 3. Distribution in Kind
 - 4. Offset of Assets and Credits
 - 5. Liquidation of Assets
- J. Transfers Prior to Trial
- K. Enforcement
- L. Third Party Executions
- M. Modification
- N. Death of a Party After Judgment

XXXIV. Case Processing and Disposition

- A. Early Settlement Program
- B. Case Management Conference
- C. Motion Practice
- D. Trial

XXXV. Modification of Alimony and Child Support

- A. Changed Circumstances
 - 1. *Lepis v. Lepis*, 83 N.J. 139 (1980)
 - 2. “Halliwell” applications
 - 3. College Costs
 - a. “Newburgh” factors
- B. Prospective Modification of Orders (N.J.S.A. 2A:17-56.23(a))
- C. Emancipation of Children

XXXVI. Enforcement of Support

- A. Administrative Processes
 - 1. Income Withholding
 - 2. Judgement by Operation of Law

3. Credit Reporting
4. Federal and State Offset of Income Tax Refunds
5. License Revocation
6. Financial Institute Data Match

B. Appeal of Administrative Process

C. Relief to Litigants Rights

XXXVII. Awarding Counsel Fees

XXXVIII. Effect of Bankruptcy

A. Estate of Debtor

B. Automatic Stay

C. Future Planning or Fraud

D. Criteria for Discharge of Marital Obligation

1. “Present Circumstances” Analysis

2. “Intended Function” Analysis

3. Debts to Third Parties

E. Support Issues Under Chapter 13

Domestic Violence: Instructional Outline

Domestic Violence

XXXIX. Court Procedures - Initial Complaints

- A. Jurisdiction
 - 1. Standing to Bring a Complaint
 - 2. Acts Constituting Domestic Violence
 - 3. Venue
- B. Processing of Complaints
 - 1. Law Enforcement Procedures
 - 2. Family Division Processing
 - a. Taking a Complaint
 - b. Telephonic Application for Restraining Order
 - 3. Domestic Violence Hearing Officer
 - a. Emergent Hearing
 - b. Temporary Restraining Order (TRO)
 - c. Appeals of *Ex Parte* Orders
 - 4. Final Hearing Process
 - a. Scheduling and Appearance
 - b. Findings
 - c. Disposition
 - 5. Withdrawals/Requests for Dismissal
 - a. Withdrawals of Complaints
 - b. Dismissal of Final Orders
 - c. Requests to Reopen Withdrawn or Dismissed Complaints

XL. Weapons Forfeiture

- A. Weapons Used in Commission of Criminal Offense
- B. Safekeeping Purposes
- C. Outside County Issuing the Restraining Order
- D. Law Enforcement Officers Involved in a Domestic Violence Incident
- E. Restrictions on Return of Firearms

XLI. Enforcement

- A. Criminal Contempt
 - 1. Mandatory Arrest
 - 2. Complaint
 - a. Indictable Contempt
 - b. Non-Indictable Contempt
- B. Civil Contempt (Enforcement of Litigants Rights Proceeding)
 - 1. Monetary Compensation
 - a. Child Support
 - b. Other
 - 2. Non-Monetary
 - a. Parenting Time
 - b. Personal Property
 - c. Other

XLII. Modification

- A. Motion for Modification or Dissolution of Final Order
 - 1. Changed Circumstances
 - 2. Effect of Dissolution of Final Order
- B. Order to Show Cause
- C. Modification of Child Support

Juvenile Justice: Instructional Outline

Juvenile

XLIII. Purpose of the Code of Juvenile Justice - (N.J.S.A. 2A:4A-21)

XLIV. Definition of Delinquency - (N.J.S.A. 2A:4A-23)

XLV. Venue/Jurisdiction

- A. Venue - R.5:19-1
- B. Jurisdiction - Exclusive Jurisdiction
 - 1. Age - (N.J.S.A. 2A:4-A-24)
 - 2. Subject Matter
 - 3. Referral to Court
 - a. Complaints (N.J.S.A. 2A:4A-30; R.5:20-1)
 - b. Review and Processing of Complaints (N.J.S.A. 2A:4A-71)
 - 4. Diversion
 - a. Juvenile Conference Committee (JCC)
 - b. Intake Service Conference (ISC)
 - c. Family Crisis Intervention (FCIU)
 - 5. Screening Complaints
 - a. Counsel Non-Mandatory (Informal Calendar)
 - (1) Juvenile Referee
 - b. Counsel Mandatory (Formal Calendar)
 - (1) Application for Assignment of Counsel
 - (2) Subsequent Offenses/Violation
 - (3) Court Appointed Counsel
- C. Transfer of Jurisdiction (Waiver)
 - 1. Involuntary Transfer (N.J.S.A. 2A:4A-26; R.5:22-2)
 - a. Standards
 - (1) Age
 - (2) Probable Cause
 - (3) Probability of Rehabilitation
 - b. Evidence
 - (1) Use of Experts
 - (2) Hearsay

- (3) Juveniles Right to Testify
 - (4) Immunity (N.J.S.A. 2A:4A-29; R.5:22-2(d))
 - c. Place of Confinement After Waiver
 - (1) Detention Hearing (R.5:22-3)
 - d. Retention of Jurisdiction
- 2. Voluntary Transfer (N.J.S.A. 2A:4A-27; R.5:22-1)

XLVI. Detention

- A. Intake/Screening Process
 - 1. Role of the Intake Worker
 - 2. Immediate Filing of Complaint (R.5:20-1(a))
 - 3. Notification of Parent/Guardian
- B. Standards and Criteria
 - 1. Requirements
 - a. Risk to Persons/Property in the Community
 - b. To Assure Appearances at Future Events
 - 2. Exclusions
 - a. Age
 - 3. Process
 - a. Initial Detention Hearing (N.J.S.A. 2A:4A:-38; R.5:21-3(a))
 - b. 48 Hour Hearings and Reviews
 - c. Probable Cause Hearings (N.J.S.A. 2A:4A-38; R.5:21-3(b))
 - d. Findings
 - 4. Place of Detention
 - 5. Detention Alternatives
 - a. Listing of Probable Alternatives
 - b. Development of New Alternatives
 - c. Use of “Wrap Around” Services
 - d. Use of Early Evaluations
 - 6. Bail/Bond

XLVII. Adjudication

- A. Constitutional Rights

1. Right to Counsel
2. Right to Expert Witness
3. Burden of Proof
4. Search and Seizure
 - a. School Searches
5. Confessions
 - a. Voluntariness
 - b. Miranda
6. Double Jeopardy
7. Speedy Trial
8. Identification
9. Post-Conviction Relief

B. Process

1. Case Conference
2. Taking an Admission (Plea of Guilty)
3. Adjudicatory Hearing
 - a. Standard of Proof
 - b. Statute of Limitations
 - c. Sequestration of Witnesses
 - d. Evidence
 - e. Conducting the Counsel Non-Mandatory Hearing
 - f. Conducting the Counsel Mandatory Hearing

XLVIII. Disposition

A. Simultaneous

B. Scheduled Event

1. Ordering Reports/Evaluations
 - a. Time Frame
 - b. Types
 - (1) Pre-Disposition Report (PDR)
 - (2) Multi-Disciplinary Team Report (MDT)
 - (3) Juvenile Intensive Supervision Program (JISP)

- (4) Other Evaluations
 - (a) Psychological
 - (b) Psychiatric
 - (c) Drug/Alcohol
 - (d) Fire-Setters
 - (e) Psycho-Sexual
 - (f) Child Study Team (CST)
 - (g) Discharge Summaries

- 2. Conducting the Hearing
 - a. Time of Disposition
 - b. Victim Participation
 - c. Right of Allocution
 - d. Use of Aggravating/Mitigating Factors
 - e. Right to Appeal/Counsel
 - f. Factors to Be Considered (N.J.S.A. 2A:4A-43(a))

C. Dispositional Alternative (N.J.S.A. 2A:4A-43(b))

- 1. Adjourned Disposition (Continuance)
- 2. Probation
- 3. Transfer Custody
- 4. Protective Services (Division of Youth and Family Services)
 - a. Residential and Other Out-of-Home Placements
 - b. Other
- 5. Mental Health Services
 - a. Hospitalization/Civil Commitment
 - b. Residential
 - (1) Use of DYFS Placements
 - c. Partial Hospitalization/Intensive Out-Patient
- 6. Drug/Alcohol
 - a. Inpatient/Residential (Level I)
 - b. Intensive Outpatient (Level II)
 - c. Outpatient (Level III)

- d. Problems of the Dually Diagnosed
 - 7. Education
 - 8. Work/Jobs
 - 9. Community Service
 - 10. Restitution
 - 11. Curfew
 - 12. Driver's License Suspension/Postponement
 - 13. Fines
 - 14. Incarceration
 - a. Presumption of Non-Incarceration
 - b. Use of Aggravating/Mitigating Factors
 - c. Exclusions
 - (1) Developmentally Disabled (N.J.S.A. 2A:4A-44(c))
 - d. Terms of Incarceration
 - e. Post Incarceration Supervision
 - f. Extended Terms
 - g. Consecutive Terms
 - h. Credit for Time Served
 - i. Use of Recall
 - 15. Offense Specific Penalties
 - a. Motor Vehicle Related Offenses
 - b. Sex Offenses (Megan's Law)
 - c. Drugs
 - (1) Drug Offender Restraining Order Act
 - (2) DEDR
 - d. Shoplifting
 - e. Graffiti
 - f. VCCB and LEOTEF
 - 16. Any Other Reasonable Condition
- D. Dispositional Orders
- 1. Effect of Dispositions (N.J.S.A. 2A:4A-48)

2. Termination of Dispositional Orders (N.J.S.A. 2A:4A-47)

E. Violations of Probation, Parole, JISP, and Suspended Dispositions

XLIX. Confidentiality (N.J.S.A. 2A:4A-60)

A. Access to Proceedings

B. Disclosure

1. Limiting Disclosure

2. Modification

3. To Law Enforcement

4. To School Officials

5. Protective Orders

6. Fingerprinting and Photographing Juveniles

7. Sealing Juvenile Records

8. Expungement

L. Interstate Transactions

A. Interstate Compact on Juveniles

B. Interstate Warrants/Subpoenas

C. Transfer Probation Supervision to Other States

LI. The Role of the Juvenile Judge

Child Support Guidelines: Instructional Outline

Child Support Guidelines

LII. Economic Basis

- A. Defining Marginal Costs
- B. Income Shares Approach
- C. Standard of Well-Being
 - 1. Engel Method
 - 2. Rothbarth Method
 - 3. Consumer Expenditure
 - 4. Betson Analysis
 - 5. Development of Child Support Awards Schedule
- D. Guidelines as a Rebuttable Presumption
- E. Economic Principles Included in Child Support Guidelines
 - 1. Larger Households
 - 2. Increase of Family Size
 - 3. Increase in Total Expenditures
 - 4. Increase in Family Income
 - 5. Family Consumption
 - 6. Effect of Number Children on Marginal Cost Increase
- F. Assumptions Included in Child Support Guidelines
 - 1. Standard of Living
 - 2. Marginal Cost Estimation
 - 3. Rothbarth Marginal Cost Estimator
 - 4. National versus New Jersey Spending on Children
 - 5. Parenting Time and Shared Parenting
 - 6. Age of Children
 - 7. Self-Support Reserve
 - 8. Income Tax Withholding
 - 9. Spending of Child Support Order
 - 10. Sharing of Child-Rearing Expenses
- G. Expenses Included in Child Support Schedules

1. Fixed Expenses
 2. Variable Expenses
 3. Controlled Expenses
- H. Expenses Which May Be Added to the Basic Support Obligation
1. Child-Care Expenses
 2. Health Insurance Premium
 3. Predictable and Recurring Unreimbursed Health Care Expenses
 4. Other Expenses Approved by the Court
- I. Factors Requiring Adjustments to Support Obligation
1. Other Legal Dependents of Either Parent
 2. Multiple Family Obligations
 - a. Child Support Orders for Other Dependents
 - b. Other Dependent Deduction Calculation
 3. Government Benefits Paid for Children

LIII. Income

- A. Definition of Income
- B. Collecting and Verifying Income Information
1. Case Information Statements/Financial Statements
 2. Federal and State Income Tax Returns
 3. Year-to-Date Income
 4. Self Employed
 5. Sporadic Income
 6. Imputation of Income
 - a. Wage Compendium
 - b. Most Recent Wage or Benefit Record
 - c. Imputation Based on Minimum Wage
 - d. In-Kind Income
 7. Taxable and Non-Taxable Income
 8. Determining Tax Liability
 - a. Appendix IX-H
 - b. Circular E

c. Withholding Exemptions

LIV. Adjustment for Parenting Time

- A. Definition
- B. Costs
 - 1. Variable Expenses
 - 2. Fixed Expense
- C. Regular Parenting Time
 - 1. Parenting Plan/Order
 - 2. Calculation of Visitation Adjustment (Sole Parenting)
- D. Extended Parenting Time (Vacation and Holidays)
 - 1. Adjustment to Obligation
 - 2. Abatement against Obligation
- E. Shared-Parenting Arrangements
 - 1. Parties Defined
 - a. Parent of Primary Residence (PPR)
 - b. Parent of Alternate Residence (PAR)
 - 2. Criteria for Determining Shared Parenting
 - a. Parenting Plan/Order
 - b. Substantial Overnight Equivalent
 - c. Demonstration of Separate Living Accommodations
 - d. PPR Household Income
 - 3. Calculation of Shared Parenting Adjustment

LV. Split Parenting Arrangements

LVI. Child in Custody of a Third Party

LVII. Adjustments for Age of Children

- A. Expenditures Averaged from Birth through 17 Years of Age
- B. Awards Entered for Children 12 through 17 Years of Age

LVIII. College or Other Post Secondary Educational Expenses

- A. Duplicate Expenditures
- B. Consideration of Case Law

LIX. Determination of Child Support and Alimony Simultaneously

A. Pendente Lite

B. Final Order

LX. Extreme Parental Income Situations

A. Obligors with Net Income Less Than Poverty Level

B. Combined Net Annual Income in Excess of \$150,800

LXI. Other Factors Which May Require Adjustment to Guidelines Based Award

LXII. Stipulated Agreements

A. Amount of Support Calculated Using Guidelines

B. Reason for Deviation

LXIII. Modification of Child Support

LXIV. Effect of Emancipation of Child

LXV. Support for Children Over the Age of Majority

A. Case Law

B. Statutory Factors

LXVI. Health Insurance for Children

A. Reasonable Cost

B. Types of Coverage

C. Determination of Parental Responsibility

D. Unpredictable, Non-Recurring Health-Care Expenses

LXVII. Line Instructions

A. Sole-Parenting Worksheet

B. Shared-Parenting Worksheet

LXVIII. Use of FamilySoft® Child Support Guidelines Software

UIFSA: Instructional Outline

Uniform Interstate Family Support Act (UIFSA)

LXIX. General Principles

- A. Recognition of Tribunals
- B. “One Order in Time” Concept
- C. Evidentiary Provisions
 - 1. Rules of Evidence
 - 2. Use of Telephonic Hearings
- D. Discovery and Assistance
- E. One-State and Two-State Processes
- F. Terminology
 - 1. Tribunals
 - 2. Child Support
 - 3. Petitioner/Respondent
 - 4. Continuing Exclusive Jurisdiction (CEJ)
 - 5. Controlling Order
 - 6. Non-modifiable Provisions
- G. Issuance of Order of Non-disclosure

LXX. Establishment Jurisdiction

- A. Personal Jurisdiction
 - 1. Residence of Defendant
 - 2. Long-Arm Jurisdiction
 - a. Statutory Basis
 - b. Service of Process
 - c. Evidentiary Provisions
 - d. Challenge to Jurisdiction
 - 3. Simultaneous Proceedings
 - 4. Prohibition of *De Novo* Order
- B. Two-State Process (Interstate Petition)
 - 1. New Jersey as Initiating State
 - 2. New Jersey as Responding State
 - a. Recognition of Paternity

- b. Affidavit in Support of Paternity
- c. General Testimony/Financial Statement
- d. Legal Representation

LXXI. Enforcement Jurisdiction

- A. New Jersey Controlling Order
 - 1. Direct Income Withholding
 - 2. Registration for Enforcement
- B. New Jersey as Registering State
 - 1. Role of Central Registry
 - 2. Notice to Respondent
 - 3. Registration as a Ministerial Act
 - a. Enforcement
 - b. Confirmation of Registration
 - 4. Contest of Registration
 - a. Defense to Registration
 - b. Remedy for Successful Contest
 - 5. Choice of Law

LXXII. Modification Jurisdiction

- A. Determination of Continuing Exclusive Jurisdiction
- B. Determination of Controlling Order
 - 1. Orders that “Count” in Determining Controlling Order
 - 2. Orders that Do Not “Count” in Determining Controlling Order
 - 3. Home State of Child
- C. Exceptions to Rules for Modification
 - 1. Consent to Confer Modification Jurisdiction
 - 2. Spousal Support
 - 3. No State of Continuing Exclusive Jurisdiction
- D. Reconciliation of Arrears Accrued Under Multiple Orders

LXXIII. Federal Laws

- A. Full Faith and Credit of Child Support Orders Act (FFCCSOA)
- B. Deadbeat Parents Punishment Act

LXXIV. New Jersey UIFSA Structure

- A. Central Registry
- B. Family Division
- C. Probation Division
- D. Child Support Hearing Officer Program
- E. County Welfare Agencies

Observation:

Instructional Outline

Observation

LXXV. Dissolution Matters

- A. Uncontested Divorce Hearings (With Attorneys and Pro Se)
 - 1. Incorporating Property Settlement Agreements (Oral and Written)
 - 2. *Crews* and *Carter* Issues
 - 3. Notice of Equitable Distribution (With Testimony on Issues)
- B. Case Management Conferences
- C. Motions (Pre and Post Judgment Matters)
- D. Child Interview
- E. Order to Show Cause Application

LXXVI. Domestic Violence

- A. Domestic Violence Hearing Officer Proceedings
- B. TRO Application Before Judge
- C. FRO Hearings
- D. Weapon Forfeiture Proceedings
- E. DV Contempt Proceedings
 - 1. Arraignment
 - 2. Bail Review
 - 3. Conducting a *Crifasi* Hearing (Self Representation)
 - 4. Accepting a Plea
 - 5. Sentencing Proceedings
 - 6. Violation of Probation Proceedings

LXXVII. Non-Dissolution (Full Day of Observing Non-Dissolution Proceedings)

- A. Mediation Process
- B. Child Support Hearing Officer Calendar
- C. Contested Custody/Parenting Time

LXXVIII. Children in Court

- A. Application for Order to Show Cause by DAG
- B. Case Review Calendar
- C. Permanency Hearing

- D. Fact-Finding Stipulation
- E. Termination Stipulation
- F. Termination Surrender (General and Identified Surrender)
- G. Discussion With Team Leader on Child Placement Review Board Matters

LXXIX. Juvenile Matters

- A. Retention Hearing
- B. Crisis Case
- C. Probable Cause Hearing
- D. Accepting Plea
- E. Dispositions
- F. Violation of Probation

Conduct and Demeanor: Instructional Outline

Conduct and Demeanor

LXXX. Code of Judicial Conduct

- A. Canon 1 - A judge should uphold the integrity and independence of the Judiciary.
- B. Canon 2 - A judge should avoid impropriety and the appearance of impropriety in all activities.
- C. Canon 3 - A judge should perform the duties of judicial office impartially and diligently.
- D. Canon 4 - A judge may engage in activities to improve the law, the legal system and the administration of justice.
- E. Canon 5 - A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.
- F. Canon 6 - A judge shall not receive compensation for quasi-judicial and extra-judicial activities.
- G. Canon 7 - A judge shall refrain from political activity.

LXXXI. Judicial Demeanor - Points to Consider

- A. Be Gracious to Parties and Witnesses
 - 1. Listen attentively
 - 2. Try and put persons appearing in front of you at ease.
 - 3. Avoid cynicism, insensitivity, gruff or intemperate remarks.
- B. Be Fair
 - 1. Avoid conduct and associations that may raise questions about your impartiality.
 - 2. Avoid the appearance or impression of bias for or against a particular party or witness.
 - 3. Keep an open mind.
- C. Be Patient
 - 1. Avoid "throwing your weight around."
 - 2. Exercise the power you have in a dignified, gentle but firm manner.
 - 3. Learn to recognize stress triggers.
 - 4. Don't lose your sense of humor.
 - 5. When you have "reached your limit," leave the bench and take a break
- D. Be Decisive

1. Employ “thoughtful consideration” but make a decision as quickly as possible.
2. Announce the decision with a show of confidence that it is correct.
3. Do not fear reversal by the Appellate Division or Supreme Court; it happens to everyone sooner or later.

E. Be Dignified

1. Establish a proper atmosphere in the courtroom.
2. Require civility of all participants; litigants, witnesses, courtroom staff and yourself.

LXXXII. Beneficial “Tips to Follow” When Off the Bench

A. Never Look Back

1. Leave other people’s problems at the courthouse and don’t bring them home.
2. Believe that you have “done your job” if you made your decision with careful though based upon the best information you had at that time.

B. “It’s Not Your Fault”

1. Understand that the family problems brought before you existed well before you entered the courthouse on the day you decided the case.
2. Don’t feel that you are “part of the problem.”

C. Get to Know Your Staff

1. Learn the names of your support staff.
2. Understand the function and importance of what they do.
3. Meet periodically with those who impact directly on your case processing.

D. Get a Mentor

1. Find an experienced judge in your case type area who you can depend on for sound advice and information.

E. Be a Mentor

1. Learn what you teach.
2. Offer to help someone in the same position as you.

F. Trust Your “Gut Feeling”

1. Realize that much of Family Law is based upon fairness and equity.
2. If you think the result is right, it probably is.

Appendix III:

Compilation of Materials

ICLE Family Law Videotapes

- Adoption Practice Update (1999)
- Alimony Basics (June, 1999)
- Children, Divorce, Custody (November, 2000)
- Complying with New Matrimonial Rules (April, 1999)
- Containing Conflict in Family Law Cases (April, 2000)
- The Crews Decision (July, 2000)
- Custody Basics (December, 1999)
- Domestic Torts Update '97 (May, 1997)
- Essentials of Domestic Violence (June, 2000)
- Everything You Need to Know About Alimony (December, 2000)
- Evidence for Family Lawyers I & II (1998/99)
- Family Law Summer Institute (July, 2000)
- Family Law Symposium (2001)
- Family Law Update (2000)
- Handling the Bitter Divorce Case (March, 1999)
- How to Interview Children (April, 1999)
- Inside Custody Evaluations (April, 2000)
- Introduction to Equitable Distributions (March, 1998)
- Litigating Interstate Child Custody
- Marital Agreements (August, 1999)
- Masters Forum in Family Law (June, 2000)
- Tax Aspects of Divorce (June, 2000)
- Top 40 (December, 1999)
- UIFSA (August, 1998)

Family Training Videotapes

- Healing Wounded Hearts
- Listen to the Children: Divorce Education for Parents
- Don't Divorce the Children
- Multiple Transitions: A Young Persons Point of View on Foster Care and Adoption
- In Jason's Best Interest: Responsibilities of Lawyers in Custody Disputes (University of Pennsylvania Law School - Discussion Leader's Guide and Participant Study Materials)
- A Permanency Hearing (56 minutes)
- How to Interview Children and Understand Their Memory (April, 1999)
- Children, Divorce, and Custody (Professor Stephen J. Ceci)
- Child Support Guidelines Seminar - Judges Fall and Ross (July 16, 1997)
- Custody and Visitation Decision Making When There are Allegations of DV (National Council of Juvenile and Family Court Judges - Four Tape Series)
- Making a Difference: DV and the Role of the Court (1998 - 63 minutes)
- Through the Eyes of the Child (20 minutes - Dave Thomas [Wendy's] Foundation for Adoption)
- Child Interview Session with Judge Fall (1998 Judicial College)
- Limiting Guardianships (23 minutes)
- For Foster Parents (Dr. Coyne - 2 hours)
- Children of Divorce: Improving Parenting Plan Decisions (6 hours video conference produced by Center for Divorce Education and Ohio University)
- A Day with the Child Support System (1999 - 31 minutes)
- Morris/Sussex Kids' Club (1996 - 13 minutes)
- Cumberland County Kids' Court (1998 - 17 minutes)
- Physical and Mental Disabilities of Persons Under Guardianship (1998 - 46 minutes)
- What About the Children (1997 - 25 minutes)
- Your Children's Future: Resolving Custody Issues (Judge Zampino - 16 minutes)

CD-ROM Tutorials

- Telling Our Stories From Juvenile Court (National Council of Juvenile & Family Court Judges)
- Domestic Violence: Making rulings in hypothetical DV cases; Compare your rulings with others; Interview a psychologist who works with both victims and perpetrators; Take a quiz to test DV knowledge; DV statistics
- Child Support Guidelines (Legal+Plus Software Services)
- Navigating the Interstate Highway: Uniform Interstate Family Support Act (Service Design Associates)

Publications

- Considerations in Use of Child Support Guidelines
- Grossman, New Jersey Family Law, Lexis Law Publishing, 1999
- Guralnick, The Portable New Jersey Alimony Handbook, ICLE, 2000
- Guralnick, The Portable New Jersey Child Support Handbook, ICLE, 1998
- Louis, Handling the Critical Elements of a Divorce Case, ICLE, course material and audio tape, 1998
- Practical Skills Series, Family Law, ICLE, 2000
- Skoloff and Cutler, New Jersey Family Practice, ICLE, 2001
- Yudes, The Family Citator, ICLE, 2001